



February 20, 2001

HOUSE BILL No. 1576

DIGEST OF HB 1576 (Updated February 15, 2001 9:56 AM - DI 96)

Citations Affected: IC 8-3.

Synopsis: Railway safety. Provides the Indiana department of transportation with health and safety inspection authority for, among other areas, railroad rights-of-way, terminals, rail yards, and rail loading and unloading facilities, to the extent that this authority does not violate or is preempted by federal law. Provides that the Indiana department of transportation may order the removal of a dangerous or an unhealthy condition in property owned or operated by a railroad. Provides for a fine schedule for violations of railroad health or safety conditions, to be recovered in an action to be brought by the Indiana department of transportation.

Effective: July 1, 2001.

Mellinger

January 11, 2001, read first time and referred to Committee on Roads and Transportation.
February 19, 2001, amended, reported — Do Pass.

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HB 1576—LS 6682/DI 94+



February 20, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1576

A BILL FOR AN ACT to amend the Indiana Code concerning transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-3-1-1.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2001]: **Sec. 1.5. (a) This section does not apply to the extent that**
4 **it violates or is preempted by federal law.**

5 **(b) The department may inspect commercial railroads,**
6 **interurban railroads, and street railroads and the conditions**
7 **existing on all trains operating within the state, including areas**
8 **that are:**

9 **(1) along the rail rights-of-way;**

10 **(2) in rail yards;**

11 **(3) in terminals; and**

12 **(4) at rail loading and unloading facilities connected to**
13 **property owned or operated by a railroad, except for those**
14 **areas of loading and unloading facilities requiring no access**
15 **for service by Class I railroads.**

16 **The inspection shall be conducted for the purpose of assuring the**
17 **safety, health, and comfort of rail customers, the general public,**

HB 1576—LS 6682/DI 94+



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1 and rail employees and for the purpose of abating and removing
2 dangerous or unhealthy conditions found to exist in these locations.

3 (c) The department shall order the abatement and removal of a
4 dangerous or an unhealthy condition and order improvements to
5 be made remedying the dangerous or unhealthy condition if the
6 condition is shown to be dangerous to the health and safety of the
7 general public or the employees.

8 (d) A carrier operating in Indiana who willfully violates this
9 section is liable to the department for one (1) of the following
10 penalties:

11 (1) For the first violation, a penalty of at least one hundred
12 dollars (\$100) and not more than five hundred dollars (\$500).

13 (2) For a second violation that occurs not later than three (3)
14 years after the first violation, a penalty of at least five
15 hundred dollars (\$500) and not more than one thousand
16 dollars (\$1,000).

17 (3) For a third violation that occurs not later than three (3)
18 years after the first violation, a penalty of at least one
19 thousand dollars (\$1,000) and not more than five thousand
20 dollars (\$5,000).

21 (4) For a fourth violation that occurs not later than three (3)
22 years after the first violation, a penalty of at least five
23 thousand dollars (\$5,000) and not more than ten thousand
24 dollars (\$10,000).

25 A penalty under this section shall be recovered through a legal
26 action brought by the attorney general, or under the direction of
27 the attorney general, in the name of the state of Indiana on relation
28 of the Indiana department of transportation in the circuit or
29 superior court with jurisdiction in a county through which the
30 railroad is run or operated.

31 (e) The department may adopt rules under IC 4-22-2 to carry
32 out this chapter.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1576, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, after "(a)" insert **"This section does not apply to the extent that it violates or is preempted by federal law.**

(b)".

Page 2, delete lines 1 through 5.

Page 2, line 6, delete "After the hearing, the" and insert **"The".**

Page 2, between lines 10 and 11, begin a new paragraph and insert:

"(d) A carrier operating in Indiana who willfully violates this section is liable to the department for one (1) of the following penalties:

(1) For the first violation, a penalty of at least one hundred dollars (\$100) and not more than five hundred dollars (\$500).

(2) For a second violation that occurs not later than three (3) years after the first violation, a penalty of at least five hundred dollars (\$500) and not more than one thousand dollars (\$1,000).

(3) For a third violation that occurs not later than three (3) years after the first violation, a penalty of at least one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000).

(4) For a fourth violation that occurs not later than three (3) years after the first violation, a penalty of at least five thousand dollars (\$5,000) and not more than ten thousand dollars (\$10,000).

A penalty under this section shall be recovered through a legal action brought by the attorney general, or under the direction of the attorney general, in the name of the state of Indiana on relation of the Indiana department of transportation in the circuit or superior court with jurisdiction in a county through which the railroad is run or operated."

Page 2, line 11, delete "(d)" and insert **"(e)".**

and when so amended that said bill do pass.

(Reference is to HB 1576 as introduced.)

GOODIN, Chair

Committee Vote: yeas 6, nays 3.

HB 1576—LS 6682/DI 94+



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